

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0716-MWD-E **TCEQ ID:** RN102816873 **CASE NO.:** 33460
RESPONDENT NAME: Texas Department of Criminal Justice

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: TDJC Ferguson Unit, approximately four-tenths of a mile northeast of the intersection of Farm-to-Market Road 247 and Farm-to-Market Road 1428, approximately 20 miles north/northwest of Huntsville, Madison County</p> <p>TYPE OF OPERATION: Domestic wastewater system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 24, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-2134; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Frank Inmon, Director, Ferguson Unit, Texas Department of Criminal Justice, P.O. Box 4011, Huntsville, Texas 77342; Mr. Charles Marsh, Chief Financial Officer, P.O. Box 4011, Huntsville, Texas 77342 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 18, 2007</p> <p>Date of NOE Relating to this Case: April 26, 2007 (NOE)</p> <p>Background Facts: This was a routine records review. One violation was documented.</p> <p>WATER</p> <p>Failure to comply with the permit effluent limits [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11176001, Final Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001(A)].</p>	<p>Total Assessed: \$3,660</p> <p>Total Deferred: \$732 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,928</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See Attachment A)</p> <p>2) The Order will also require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 11176001.</p>

Attachment A
Docket Number: 2007-0716-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texas Department of Criminal Justice
Payable Penalty Amount:	Two Thousand Nine Hundred Twenty-Eight Dollars (\$2,928)
SEP Amount:	Two Thousand Nine Hundred Twenty-Eight Dollars (\$2,928)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up
Location of SEP:	Madison County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to ATexas Commission on Environmental Quality@ and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES	Assigned	30-Apr-2007	Screening	7-May-2007	EPA Due	
	PCW	24-May-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Texas Department of Criminal Justice		
Reg. Ent. Ref. No.	RN102816873		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33460	No. of Violations	1	
Docket No.	2007-0716-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Suzanne Walrath	
Multi-Media		EC's Team	Enforcement Team 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **83% Enhancement** **Subtotals 2, 3, & 7** **\$1,660**

Notes The respondent received 15 NOVs for same or similar violations (all of which were self-reported), and 4 NOVs for not same or similar violations.

Culpability **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0% Reduction** **Subtotal 5** **\$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts **\$246** **0% Enhancement*** **Subtotal 6** **\$0**
Approx. Cost of Compliance **\$2,500** ***Capped at the Total EB \$ Amount**

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$3,660**

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment **\$0**

Notes

Final Penalty Amount **\$3,660**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$3,660**

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

20% Reduction **Adjustment** **-\$732**

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$2,928**

Screening Date 7-May-2007

Docket No. 2007-0716-MWD-E

PCW

Respondent Texas Department of Criminal Justice

Policy Revision 2 (September 2002)

Case ID No. 33460

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102816873

Media [Statute] Water Quality

Enf. Coordinator Suzanne Walrath

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	15	75%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 83%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The respondent received 15 NOVs for same or similar violations (all of which were self-reported), and 4 NOVs for not same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 83%

Screening Date 7-May-2007

Docket No. 2007-0716-MWD-E

PCW

Respondent Texas Department of Criminal Justice

Policy Revision 2 (September 2002)

Case ID No. 33460

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102816873

Media [Statute] Water Quality

Enf. Coordinator Suzanne Walrath

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES Permit No. 11176001, Final Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001(A)

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on April 18, 2007. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate Total Ammonia Nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow and Carbonaceous Biochemical Oxygen Demand (5 day) reported values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

120 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended for outfall 001.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$246

Violation Final Penalty Total \$3,660

This violation Final Assessed Penalty (adjusted for limits) \$3,660

Economic Benefit Worksheet

Respondent Texas Department of Criminal Justice
 Case ID No. 33460
 Reg. Ent. Reference No. RN102816873
 Media Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$2,500	1-Feb-2006	20-Jan-2008	2.0	\$246	n/a	\$246
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$246

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
DOCKET NO. 2007-0716-MWD-E
ENFORCEMENT CASE NO. 33460
EFFLUENT TABLE**

Month	NH3-N Daily Avg. (Mg/L) Permit Limit = 2 (Concentration)	NH3-N Daily Avg. (lbs./day) Permit Limit = 16 (Loading)	CBOD Daily Avg. (Mg/L) Permit Limit = 7 (Concentration)	CBOD Daily Maximum (Mg/L) Permit Limit = 17 (Concentration)	CBOD Daily Avg. (lbs./day) Permit Limit = 57 (Loading)
February 2006	2.7	C	11.5	40	72
November 2006	4.14	24.29	C	C	C
December 2006	3.95	21.28	C	C	C
January 2007	2.72	C	C	C	C
C - compliant NH3-N = Ammonia Nitrogen					
Mg/L = milligrams per liter lbs./day = pounds per day CBOD = Carbonaceous Biochemical Oxygen Demand					

Compliance History

Customer/Respondent/Owner-Operator: CN601550650 Texas Department of Criminal Justice Classification: AVERAGE Rating: 2.66

Regulated Entity: RN102816873 TDCJ FERGUSON UNIT Classification: AVERAGE Site Rating: 1.03

ID Number(s):

DAM SAFETY	ID NUMBER	TX03228
WASTEWATER AGRICULTURE	PERMIT	TXG920524
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1570002
PETROLEUM STORAGE TANK	REGISTRATION	41776
REGISTRATION		
WASTEWATER	PERMIT	WQ0011176001
WASTEWATER	PERMIT	TPDES0031615
WASTEWATER	PERMIT	TX0031615
WASTEWATER	PERMIT	TX0083313000
WASTEWATER	PERMIT	TX0031615000
WASTEWATER LICENSING	LICENSE	WQ0011176001
WATER LICENSING	LICENSE	1570002
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	MD0002X
AIR NEW SOURCE PERMITS	PERMIT	53618
AIR NEW SOURCE PERMITS	REGISTRATION	45727
AIR NEW SOURCE PERMITS	REGISTRATION	46846
AIR NEW SOURCE PERMITS	PERMIT	42988

Location: Located approximately four-tenths of a mile northeast of the intersection of Farm-to-Market Road 247 and Farm-to-Market Road 1428, approximately 20 miles north/northwest of Huntsville, Madison County Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: May 15, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 15, 2002 to May 15, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Suzanne Walrath Phone: 512/239-2134

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 07/22/2002 (177862)
 - 2 07/22/2002 (177865)
 - 3 07/30/2002 (177868)
 - 4 09/03/2002 (177871)
 - 5 10/01/2002 (177873)
 - 6 11/15/2002 (177877)
 - 7 12/09/2002 (177880)

8	01/10/2003	(177883)
9	02/13/2003	(177887)
10	03/19/2003	(177852)
11	03/19/2003	(177855)
12	03/25/2003	(303678)
13	06/26/2003	(303679)
14	06/26/2003	(303680)
15	06/26/2003	(303681)
16	08/28/2003	(98029)
17	09/25/2003	(303682)
18	09/29/2003	(249789)
19	10/09/2003	(303683)
20	10/09/2003	(303684)
21	11/20/2003	(303685)
22	12/01/2003	(303686)
23	02/04/2004	(303687)
24	03/02/2004	(303688)
25	07/15/2004	(355452)
26	08/11/2004	(355453)
27	08/11/2004	(283288)
28	08/19/2004	(355454)
29	08/25/2004	(355456)
30	09/03/2004	(355455)
31	11/30/2004	(340402)
32	03/07/2005	(421642)
33	04/07/2005	(421634)
34	04/07/2005	(421635)
35	04/07/2005	(421638)
36	04/07/2005	(421639)
37	04/07/2005	(421640)
38	04/07/2005	(421641)
39	06/16/2005	(421636)
40	06/16/2005	(421637)
41	07/15/2005	(333358)
42	08/29/2005	(442583)
43	09/30/2005	(442581)
44	10/17/2005	(442582)
45	11/04/2005	(471717)
46	11/04/2005	(471718)
47	11/23/2005	(471719)
48	01/06/2006	(471720)
49	02/08/2006	(471721)
50	03/14/2006	(471716)
51	04/18/2006	(459306)
52	04/19/2006	(500269)
53	05/10/2006	(465448)
54	05/18/2006	(500270)
55	06/01/2006	(500271)
56	07/14/2006	(522363)
57	08/16/2006	(522364)
58	09/28/2006	(522365)
59	10/20/2006	(547056)
60	10/25/2006	(547057)
61	12/01/2006	(547058)
62	12/29/2006	(547059)
63	01/29/2007	(547060)
64	04/26/2007	(557418)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date 05/31/2002 (177865)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	07/31/2005 (442583)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/28/2006 (500269)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/17/2006 (459306)		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(4)		
Description:	Failure to maintain the distribution system line in a watertight condition.		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)		
Description:	Failure to provide a concrete sealing block that extends at least 3 feet from the exterior well casing in all directions.		
Date	11/30/2006 (547059)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	12/31/2006 (547060)		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	01/31/2007		
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Description:	Failure to meet the limit for one or more permit parameter		
Date	12/31/2002	(177887)	
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/31/2003	(303681)	
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/30/2003	(303682)	
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	08/28/2003	(98029)	
Self Report?	NO	Classificatio	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.7(a)[G]		
	30 TAC Chapter 319, SubChapter A 319.7(c)		
Description:	Failure to maintain proper operation calibration logs for field measurement equipment.		
Date	10/31/2003	(303686)	
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2003	(303687)	
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	08/06/2004	(283288)	
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.41(c)		
Description:	Failure to document all inspection and maintenance activities.		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.41(d)		
Description:	Failure to document visual inspections of all equipment, facility & material handling areas.		
Date	09/07/2004	(333358)	
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.41(c)		
Description:	Failure to document all inspection and maintenance activities.		
Self Report?	NO	Classificatio	Minor
Citation:	30 TAC Chapter 321, SubChapter B 321.41(d)		
Description:	Failure to document visual inspections of all equipment, facility & material handling areas.		
Date	03/31/2005	(421636)	
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2005	(421637)	
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/31/2005	(442581)	
Self Report?	YES	Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/30/2005	(442582)	

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS DEPARTMENT OF
CRIMINAL JUSTICE
RN102816873

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-0716-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Department of Criminal Justice ("TDCJ") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and TDCJ, appear before the Commission and together stipulate that:

1. TDCJ owns and operates a domestic wastewater system within the TDCJ Ferguson Unit property, approximately four-tenths of a mile northeast of the intersection of Farm-to-Market Road 247 and Farm-to-Market Road 1428, approximately 20 miles north/northwest of Huntsville, Madison County, Texas (the "Facility").
2. TDCJ has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch 26.
3. The Commission and TDCJ agree that the Commission has jurisdiction to enter this Agreed Order, and that TDCJ is subject to the Commission's jurisdiction.
4. TDCJ received notice of the violations alleged in Section II ("Allegations") on or about May 1, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by TDCJ of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Six Hundred Sixty Dollars (\$3,660) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Seven Hundred Thirty-Two Dollars (\$732) is deferred contingent upon TDCJ's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If TDCJ fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require TDCJ to pay all or part of the deferred penalty. Two Thousand Nine Hundred Twenty-Eight Dollars (\$2,928) shall be conditionally offset by TDCJ's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and TDCJ have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that TDCJ has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, TDCJ is alleged to have failed to comply with the permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11176001, Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001A, as documented during a record review conducted on April 18, 2007. See table below.

Month	NH3-N Daily Avg. (Mg/L) Permit Limit = 2 (Concentration)	NH3-N Daily Avg. (lbs./day) Permit Limit = 16 (Loading)	CBOD Daily Avg. (Mg/L) Permit Limit = 7 (Concentration)	CBOD Daily Maximum (Mg/L) Permit Limit = 17 (Concentration)	CBOD Daily Avg. (lbs./day) Permit Limit = 57 (Loading)
February 2006	2.7	C	11.5	40	72
November 2006	4.14	24.29	C	C	C
December 2006	3.95	21.28	C	C	C
January 2007	2.72	C	C	C	C
C - compliant NH3-N = Ammonia Nitrogen					
Mg/L = milligrams per liter lbs./day = pounds per day CBOD = Carbonaceous Biochemical Oxygen Demand					

III. DENIALS

TDCJ generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that TDCJ pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and TDCJ's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Department of Criminal Justice, Docket No. 2007-0716-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. TDCJ shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6, Two Thousand Nine Hundred Twenty-Eight Dollars (\$2,928) of the assessed administrative penalty shall be offset with the condition that TDCJ implement the SEP defined in Attachment A, incorporated herein by reference. TDCJ's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that within 60 days after the effective date of this Agreed Order, TDCJ shall submit written certification of compliance with the effluent limits of TPDES Permit No. 11176001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 169
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

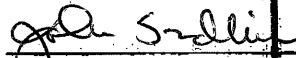
Water Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

4. The provisions of this Agreed Order shall apply to and be binding upon TDCJ. TDCJ is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If TDCJ fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, TDCJ's failure to comply is not a violation of this Agreed Order. TDCJ shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. TDCJ shall notify the Executive Director within seven days after TDCJ becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by TDCJ shall be made in writing to the Executive Director. Extensions are not effective until TDCJ receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against TDCJ in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to TDCJ, or three days after the date on which the Commission mails notice of the Order to TDCJ, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Texas Department of Criminal Justice
DOCKET NO. 2007-0715-MWD-E
Page 5.

SIGNATURE PAGE**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

For the Commission


For the Executive Director


9/7/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

8/29/07
Date

Jerry McGinty

Name (Printed or typed)
Authorized Representative of
Texas Department of Criminal Justice

Deputy Chief Financial Officer
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-0716-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texas Department of Criminal Justice
Payable Penalty Amount:	Two Thousand Nine Hundred Twenty-Eight Dollars (\$2,928)
SEP Amount:	Two Thousand Nine Hundred Twenty-Eight Dollars (\$2,928)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up
Location of SEP:	Madison County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

